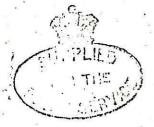
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Ancient Monuments Protection Act, 1882.

[45 & 46 Vict. Cii. 73.]

27 NOV 1975



ARRANGEMENT OF SECTIONS.

A.D. 1882.

Section.

- 1. Short title of Act.
- 2. Power to appoint Commissioners of Works guardians of ancient monuments.
- 3. Power of Commissioners to purchase ancient monuments.
- 4. Power to give, devise, or bequeath ancient monuments to Commissioners.
- 5. Inspectors of ancient monuments.
- 6. Penalty for injury to ancient monuments.
- 7. Recovery of penalties.
- 8. Description of Commissioners of Works, and law as to disposition in their favour.
- 9. Description of owners for purposes of Act.
- 10. Additions to Schodule by Order in Council.
- 11. Definitions.

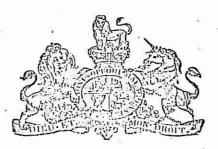
Schedule, containing List of Ancient Monuments to which Act applies.

This Act has been included for interest, as it was the first Ancient Monuments Act. Please note that it has now been repealed in its entirety, except the Schedule.

[45 & 46 Vict.]

Ancient Monuments Protection Act, 1882.

[Сп. **73**.]



CHAPTER 73.

An Act for the better protection of Ancient Monuments. [18th August 1882.]

A.D. 1882.

E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Ancient Short title Monuments Protection Act, 1882.

of Act.

2. The owner of any ancient monument to which this Act applies Power to may, by deed under his hand, constitute the Commissioners of appoint Com-Works in this Act mentioned the guardians of such monument.

missioners of Works

Where the Commissioners of Works have been constituted guardians of guardians of a monument, they shall thenceforth, until they shall monuments. receive notice in writing to the contrary from any succeeding owner not bound by such deed as aforesaid, maintain such monument, and shall, for the purpose of such maintenance, at all reasonable times by themselves and their workmen have access to such monument for the purpose of inspecting it, and of bringing such materials and doing such acts and things as may be required for the maintenance thereof.

The owner of an ancient monument of which the Commissioners of Works are guardians shall, save as in this Act expressly provided, have the same estate, right, title, and interest, in and to such monument, in all respects, as if the Commissioners had not been constituted guardians thereof.

The expressions "maintain" and "maintenance" include the fencing, repairing, cleansing, covering in, or doing any other act or thing which may be required for the purpose of repairing any monument or protecting the same from decay or injury. The cost of

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A.D. 1882.

maintenance shall, subject to the approval of Her Majosty's Treasury, be defrayed from moneys to be provided by Parliament.

Power of Commissioners to purchase ancient monuments. 3. The Commissioners of Works, with the consent of the Treasury, may purchase out of any moneys which may for that purpose be from time to time provided by Parliament any ancient monument to which this Act applies, and with a view to such purchase the Lands Clauses Consolidation Acts shall be incorporated with this Act, with the exception of the provisions which relate to the purchase and taking of lands otherwise than by agreement. In construing the said Lands Clauses Consolidation Acts for the purposes of this Act, this Act shall be deemed to be the special Act, and the Commissioners of Works shall be deemed to be the promoters of the undertaking.

Power togive, devise, or bequeath ancient monuments to Commissioners. 4. Any person may by deed or will give, devise, or bequeath to the Commissioners of Works all such estate and interest in any ancient monument to which this Act applies as he may be seised or possessed of, and it shall be lawful for the Commissioners of Works to accept such gift, devise, or bequest if they think it expedient so to do.

Inspectors of ancient monuments.

5. The Commissioners of Her Majesty's Treasury shall appoint one or more inspectors of ancient monuments, whose duty it shall be to report to the Commissioners of Works on the condition of such monuments, and on the best mode of preserving the same, and there may be awarded to the inspectors so appointed such remuneration and allowance for expenses, out of moneys provided by Parliament, as may be determined by the Commissioners of Her Majesty's Treasury.

Penalty for injury to ancient, monuments.

- 6. If any person injures or defaces any ancient monument to which this Act applies, such person shall, on summary conviction, be liable, at the discretion of the court by which he is tried, to one of the following penalties; (that is to say,)
 - (1.) To forfeit any sum not exceeding five pounds, and in addition thereto to pay such sum as the court may think just for the purpose of repairing any damage which has been caused by the offender; or,
 - (2.) To be imprisoned with or without hard labour for any term not exceeding one month.

The owner of an ancient monument shall not be punishable under this section in respect of any act which he may do to such

[45 & 46 Vict.] Ancient Monuments Protection Act, 1882.

monument, except in cases where the Commissioners of Works have A.D. 1882. been constituted guardians of such monument, in which case the owner shall be deemed to have relinquished his rights of ownership so far as relates to any injury or defacement of such monument, and may be dealt with as if he were not the owner.

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7. Offences and penalties under this Act shall be prosecuted and Recovery of recovered in manner provided by the Summary Jurisdiction Acts.

penalties.

The expression "Summary Jurisdiction Acts"-

(1.) As regards England, has the same meaning as in the Summary 42 & 43 Vict. Jurisdiction Act, 1879; and

(2.) As regards Scotland, means the Summary Jurisdiction 27 & 28 Vict. (Scotland) Acts, 1864 and 1881; and

44 & 45 Vict.

(3.) As regards Ireland, means, within the police district of c. 33. Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district or of the police of such district; and elsewhere in Ireland, the Petty Sessions (Ireland) 14 & 15 Vict. Act, 1851, and any Act amending the same.

In England any person aggrieved by any decision of the court acting under the Summary Jurisdiction Acts may appeal to a court of general or quarter sessions.

8. The expression "The Commissioners of Works" means as Description respects Great Britain the Commissioners of Her Majesty's Works of Commisand Public Buildings, and as respects Ireland the Commissioners of Public Works in Ireland.

Works, and law as to disposition in their

Each of the said bodies, that is to say, the Commissioners of Her Majesty's Works and Public Buildings as respects Great Britain and the Commissioners of Public Works as respects Ireland, shall be incorporated by their said names respectively, and shall have perpetual succession and a common seal, and may purchase or acquire by gift, will, or otherwise, and hold without licence in mortmain, any land or estate or interest in land for the purposes of this Act; and any conveyance, appointment, devise, or bequest of land, or any estate, or interest in land under this Act to either of the said bodies, shall not be deemed to be a conveyance, appointment, devise, or bequest to a charitable use within the meaning of the Acts relating to charitable uses. In the case of an ancient monument in Scotland, a duplicate of any report made by any inspector under this Act to the Commissioners of Works shall be forwarded to the Board of Trustees for Manufactures in Scotland, and it shall be the duty of the Commissioners of Works, in relation to any such monument, to

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Act, 1882.

A.D. 1882. take into consideration any representations which may be made to them by the said Board of Trustees for Manufactures.

Description of owners for purposes of Act.

- 9. The following persons shall be deemed to be "owners" of ancient monuments for the purposes of this Act; that is to say,
 - (1.) Any person entitled for his own benefit, at law or in equity, for an estate in fee, to the possession or receipt of the rents and profits of any freehold or copyhold land, being the site of an ancient monument, whether such land is or not subject to incumbrances:
 - (2.) Any person absolutely entitled in possession, at law or in equity, for his own benefit, to a beneficial lease of land, being the site of an ancient monument, of which not less than forty-five years are unexpired, whether such land is or not subject to incumbrances; but no lease shall be deemed to be a beneficial lease, within the meaning of this Act, if the rent reserved thereon exceeds one third part of the full annual value of the land demised by such lease:
 - (3.) Any person entitled under any existing or future settlement, at law or in equity, for his own benefit, and for the term of his own life, or the life of any other person, to the possession or receipt of the rents and profits of land of any tenure, being the site of an ancient monument, whether subject or not to incumbrances in which the estate for the time being subject to the trusts of the settlement is an estate for lives or years renewable for ever, or is an estate renewable for a term of not less than sixty years, or is an estate for a term of years of which not less than sixty are unexpired, or is a greater estate than any of the foregoing estates:
 - (4.) Any body corporate, any corporation sole, any trustees for charities, and any commissioners or trustees for ecclesiastical, collegiate, or other public purposes, entitled at law or in equity, and whether subject or not to incumbrances, in the case of freehold or copyhold land, being the site of an ancient monument, in fee, and in the case of leasehold land, being the site of an ancient monument, to a lease for an unexpired term of not less than sixty years.

Where any owner as herein-before defined is a minor, or of unsound mind, or a married woman, the guardian, committee, or husband, as the case may be, of such owner, shall be the owner within the meaning of this Act; subject to this proviso, that a

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married woman entitled for her separate use, and not restrained A.D. 1882. from anticipation, shall for the purposes of this Act be treated as if she were not married. Every person deriving title to any ancient monument from, through, or under any owner who has constituted the Commissioners of Works the guardians of such monument shall be bound by the deed executed by such owner for that purpose; and where the owner of any land, being the site of an ancient monument, is a tenant for life or in tail, or heir of entail in possession in Scotland, having a power of sale over such land, either under the terms of a will or settlement, or under an Act of Parliament, any deed executed by such owner in respect of the land, being such site as aforesaid, of which he is so tenant for life or in tail, shall bind every succeeding owner of any estate or interest in the land.

10. Her Majesty may, from time to time, by Order in Council, Additions to declare that any monument of a like character to the monuments Schedule by described in the Schedule hereto, shall be deemed to be an ancient Council. monument to which this Act applies, and thereupon this Act shall apply to such monument in the same manner in all respects as if it had been described in the Schodule hereto.

An Order in Council under this section shall not come into force until it has lain for forty days before both Houses of Parliament during the Session of Parliament.

11. The following expressions shall, except in so far as is incon- Definitions. sistent with the tenour of this Act, have the meaning herein-after assigned to them; (that is to say,)

The word "settlement" includes any Act of Parliament, will, deed, or other assurance whereby particular estates or particular interests in land are created, with remainders or interests expectant thereon:

The expression "Lands Clauses Consolidation Acts" means, as "Lands respects England, the Lands Clauses Consolidation Act, 1845, Solidation and any Acts amending the same; and as respects Scotland, Acts." the Lands Clauses Consolidation (Scotland) Act, 1845, and any 8 & 9 Vict. Act amending the same; and as respects Ireland, the Lands 8 & 9 Vict. Clauses Consolidation Act, 1845, and the Acts amending the c. 19. same, so far as respects Ireland:

The expression "ancient monuments to which this Act applies" "Ancient means the monuments described in the Schodule hereto, and monuments to which Act any other monuments of a like character of which the Com- applies." missioners of Works at the request of the owners thereof may consent to become guardians; and "ancient monument"

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includes the site of such monument and such portion of land adjoining the same as may be required to fence, cover in, or otherwise preserve from injury the monument standing on such site, also the means of access to such monument. [45 & 46 Vict.] Ancient Monuments Protection Act, 1882. [Сп. 73.]

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LIST OF ANCIENT MONUMENTS TO WHICH ACT APPLIES.

IRELAND.

·	County.	Parish.	Barony.
The carthen enclosure and mounds called the Navan Fort.	Armagh -	Eglish -	Armagh.
Stone monuments and groups of sepulchral cists in Glen Maulin.	Donegal -	Glencolumbkille	Banagh.
The earthen and stone inclosure known as Grianan of Aileach.	,, -	Burt	West Innish- owen.
The earthen inclosure and Cromlech called the Giant's Ring near Ballylessan.	Down -	Drumbo -	Upper Castle- reagh.
The carthen fort at Downpatrich (Dunkeltair).	"	Downpatrick -	Lccale.
Stone structure called Staigue Fort	Kerry -	Kilcrogham -	Dunkerron.
The earthen mound at Greenmount -	. 75"	Kilsaran -	Ardce.
The stone monument at Ballyna -	Mayo -	Kilmoremoy -	Tyrawly.
Cairns and stone circles at Moytura	,,, , , , ,	Cong -	Kilmaine.
The tumuli, New Grange, Knowth and Dowth.	Meath -	Monknewton and Dowth.	Upper Slane.
The carthworks on the hill of Tara	>> -	Tara -	Skreen.
The earthworks at Teltown (Taltin)	,, -	Teltown -	Upper Kells.
The earthworks at Wardstown (Tlaghta),	n.	Athboy -	Lune.
The two central tumuli on the hills called Slieve Na Calliagh.	Meath -	Lougherew -	Forc.
The Cuirn at Heapstown	Sligo -	Kilmacallan -	Tirerrill.
Sepulchral remains at Carrowmore. The cairn called Miscaun Mave or Knochnarea.	n -	Kilmacowen -	Curbury.
The cave containing Ogham inscribed stones at Drumloghan.	Waterford -	Stradbally -	Decies without Drum.
The stone monument called the Catstone and the cemetery on the hill of Usnagh.	Westmeath	Killare -	Rathconrath.

LONDON: Printed by Exre and Spottiswoods, Printers to the Queen's most Excellent Majesty. 1886. [45 & 46 Vict.] Ancient Monuments Protection Act, 1882.

[Сп. 73.]

The SCHEDULE.

A.D. 1882.

LIST OF ANCIENT MONUMENTS TO WHICH ACT APPLIES.

ENGLAND AND WALES.

	County.	Parish.
The tumulus and dolmen, Plas Newydd,	Anglesea	Llandedwen.
Anglesca. The tumulus known as Wayland Smith's	Berkshire	Ashbury.
Torge. Uffington Castle	Cumberland -	Uffington. Addingham.
The stone circle on Castle Rigg, near Keswick.	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Crosthwaite.
The stone circles on Burn Moor - The stone circle known as The Nine Ladies, Stanton Moor. The tumulus known as Arborlow -	Derbyshire	St. Bees. Bakewell.
Moor. Minning Low	"	Brassington,
Arthur's Quoit, Gower The tumulus at Ulcy Kits Coty House Danes Camp Castle Dykes The Rollrich Stones The Pentre Evan Cromlech The ancient stones at Stanton Drew The chambered tumulus at Stoney Littleton, Wellow.	Glamorganshire - Gloucestershire - Kent - Northamptonshire Oxfordshire - Pembroheshire - Somersetshire -	Llanridian. Uley. Aylesford. Hardingstone. Farthingston. Little Rollright. Nevern. Stanton Drew. Wellow.
Cadbury Castle	Westmoreland - Wiltshire -	South Cadbury. Barton. ,, Amesbury.
Old Sarum The vallum at Abury, the Sarcen stones within the same, those along the Kennet Road, and the group between Abury and Beckhampton.	,, -, - ,, -	Abury.
The long barrow at West Kennet, near Marlborough.	,,	West Kennet.
Silbury Hill The Dolmen (Devil's Den), near Marl- borough.	" "	Abury. Fyfield.
Barbury Castle	,	Ogbourne, St. And drews, and Swindon.

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LIST OF ANCIENT MONUMENTS TO WHICH ACT APPLIES.

SCOTLAND.

	County.	Parish.
The Bass of Inverury	Aberdeenshire -	Inverurie.
The vitrified fort on the Hill of Noath -	,	Rhynie.
The pillar and stone at Newton-in-the- Garioch.	"	Culsalmond.
The circular walled structures called "Edin's Hall," on Cockburn Law.	Berwickshire -	Dunse.
The British walled settlement enclosing huts at Harefaulds in Landerdale.	"	Lauder.
The Dun of Dornadilla	Sutherlandshire -	Durness.
The sculptured stone called Sucnos Stone, near Forres.	Elgin	Rafford.
The cross slab, with inscription, in the churchyard of St. Vigeans.	Forfarshire	St. Vigcans.
The British forts, on the hills, called "The Black and White Catherthuns."	n	Menmuir.
A group of remains and pillars, on a haugh at Clava on the banks of the Nairn.	Inverness	Croy and Dalcross.
The Pictish Towers at Glenelg		Glenelg.
The Cairns, with chambers and galleries partially dilapidated.	Kirkoudbrightshire	Minnigaff.
The Catstane, an inscribed pillar -	Linlithgow -	Kirkliston.
The Ring of Brogar and other stone	Orkney	Firth and Stennis.
pillars at Stennis in Orkney, and the neighbouring pillars.	Ü	
The Chambered mound of Macshowe -	,,	"
The stones of Callernish	Ross	Uig.
The Burgh of Clickanim	Shetland	Sound.
The Pictish tower at Mousa in Shetland	,,	Dunrossness.
The inscribed slab standing on the road- side leading from Wigton to Whithorn	Wigtonshire -	Whithorn.
and about a mile from Whithorn.	S 10	
Two stones, with incised crosses, on a mound in a field at Laggangairn.	. ,,	New Luce.
The pillars at Kirkmadrine	,,	Stoneykirk.

LISTING

The Secretary of State for the Environment and the Secretary of State for Wales are required to compile lists of buildings of special architectural or historic interest. The administration of both local and national conservation policies is based on these lists, which are constantly under revision.

How the buildings are chosen

The principles of selection for these lists were originally drawn up by an expert committee of architects, antiquaries and historians, and are still followed. All buildings built before 1700 which survive in anything like their original condition are listed.

Most ouildings of 1700 to 1840 are listed, though selection is necessary. Between 184() and 1914 only buildings of definite quality and character are listed, and the selection is designed to include the principal works of the principal architects.

A start is now being made on listing selected buildings of 1914 to 1939.

In choosing buildings, particular attention is paid to:

Special value within certain types, either for architectural or planning reasons or as illustrating social and economic history (for instance, industrial buildings, railway stations, schools, hospitals, theatres, town halls markets, exchanges, almshouses, prisons, lock-ups, mills).

Technological innovation or virtuosity (for instance cast iron, prefabrication, or the early use of concrete).

Association with well-known characters or events.

Group value, especially as examples of town planning (for instance, squares, terraces or model villages).

The buildings are classified in grades to show their relative importance as follows:-

Grade I

These are buildings of exceptional interest (only about 4 per cent of listed buildings so far are in this grade).

Grade II

These are buildings of special interest, which warrant every effort being made to preserve them. (Some particularly important buildings in Grade II are classified as Grade II*.)

Grade III

This grading is no longer used but Grade III buildings were those which, whilst not normally qualifying for the statutory list, were considered nevertheless to be of some importance. Many of these buildings are now considered to be of special interest by current standards - particularly where they possess 'group value' - and are being added to the statutory lists as these are revised.

The Statutory List

Hitherto it has been the Department's practice to issue two separate types of list - a provisional list containing details of grades and descriptions of buildings and a statutory list containing only the addresses of the buildings. Local authority areas are now being resurveyed however by the Department's Investigators of Historic Buildings and their reports are being used as a basis for producing revised statutory lists in a new form. Details of gradings and descriptive notes are now being included in one cumulative statutory list for each local authority area. All the buildings included in the statutory list are legally subject to the provisions described in this pamphlet.

Where to see the lists

You can inspect the statutory lists at:

The National Monuments Record, Fortress House 23 Savile Row London WlX 2AA Welsh Office, Summit House Windsor Place Cardiff;

or at the office of the relevant county council, county borough or county district council (in London, at the office of the Greater London Council or the appropriate London borough council).

PROTECTION

The fact that a building is listed as of special architectural or historic interest does not mean that it will be preserved intact in all circumstances, but it does mean that demolition must not be allowed unless the case for it has been fully examined, and that alterations must preserve the character of the building as far as possible.

Listed building consent

Now anyone who wants to demolish a listed building, or to alter one in any way that affects its character, must obtain 'listed building consent' from the local planning authority (the county or county borough or London borough council), or the Secretary of State. The procedure is similar to that for obtaining planning permission. (Details can be obtained from the Planning Department of any county, county borough, or London borough council). It is an offence to demolish or alter a listed building without listed building consent and the penalty can be a fine of unlimited amount or up to twelve months' imprisonment, or both.

Listed building consent and planning permission

There are two special points about listed building consent and its relation to planning permission. If you want to redevelop a site on which a listed building stands, you will need both listed building consent for the demolition, and planning permission for the new building. Planning permission alone is not sufficient to authorize the demolition. But if you want to alter a listed building in a way which would affect its character, and your proposed alteration amounts to development for which specific planning permission is required (as distinct from a general permission given by the General Development Order), you will only need the express authorization of planning permission, which, in this case only, also counts as listed building consent.

Appeals

If your application for listed building consent is refused by the local planning authority, or granted subject to conditions, you have a right of appeal to the Secretary of State.

If you appeal, the Secretary of State will normally hold a public local inquiry if either you or the local authority ask him to do so. The procedure for appealing is virtually identical with the procedure for appealing against a refusal of planning permission.

RECORDING OF BUILDINGS TO BE DEMOLISHED

If you are granted listed building consent to demolish a building you must not do so until the Royal Commission on Historical Monuments has been given an opportunity to make a record of it. So if you propose to demolish a listed building you should tell the Royal Commission at Fortress House, 23 Savile Row, London WIX 2AA, or, in Wales, the Royal Commission on Ancient Monuments at Edleston House, Queen's Road, Aberystwyth, either before or immediately after you get listed building consent. You can get a form for this purpose from the local planning authority. You must then wait for at least a month (the period runs from one of two dates - the date on which listed building consent is given or the date on which the Royal Commission is notified, whichever is the later).

During that time you must allow the Royal Commission reasonable access to the building. If the Royal Commission completes its record of the building within the month, or states that it does not wish to record it, you can then demolish the building at once.

REPAIRS

If the owner fails to take reasonable steps for preserving a listed building, the local authority may be entitled to buy it compulsorily (with the Secretary of State's consent).

If the owner deliberately neglects the building in order to redevelop the site, the local authority may not only acquire the building, but may do so at a price which excludes the value of the site for redevelopment.

Owners of listed buildings can, in some cases, get grants or loans to help them with repairs and maintenance. The next section explains the position.

GRANTS AND LOANS (The term 'grant' in this section can be taken to include loans). Grants are available in certain circumstances both from central government funds and from local authorities.

They are always at the discretion of the body giving them: listing does not give any automatic entitlement to a grant.

Exchequer grants

The Secretary of State has power to make grants for the repair or maintenance of buildings that are of outstanding architectural or historic interest. Comparatively few of the listed buildings in the country qualify as 'outstanding', and so the scope for these grants is limited. The Secretary of State is advised on the making of grants by the Historic Buildings Council for England, and any enquiries should be addressed to the Secretary of the Council at the Department of the Environment 25 Savile Row London WIX 2BT. In Wales the Secretary of State is advised by the Historic Buildings Council for Wales, and any enquiries should be addressed to the Secretary of the Council at the Welsh Office, Summit House, Windsor Place, Cardiff.

Local authority grants

Local authorities have a wider scope, They may make grants for any building of architectural or historic interest and are not restricted to outstanding buildings or even to listed buildings. Grants may be made by county councils, county borough councils, and county district councils (in London by the Greater London Council and the London borough council) and enquiries should be addressed to the appropriate local authority.

You may also be able to get a house improvement grant for improving or converting a listed building which is to be used as a dwelling. For further details you should contact your local council.

CHURCHES

Many churches are of special architectural or historic interest, and are listed as such. But so long as they are used for ecclesiastical purposes they remain generally outside the scope of the provisions described in this pamphlet.

LIST OF STATUTES

The relevant Acts of Parliament are as follows: Historic Buildings and Ancient Monuments Act 1953 Local Authorities (Historic Buildings) Act 1962 Town and Country Planning Act 1971 Town and Country Planning (Amendment) Act 1972